

Richard D. McCune, SB # 132124  
rdm@mwtriallawyers.com  
Jae (Eddie) K. Kim, SB # 236805  
jkk@mwtriallawyers.com  
McCUNE & WRIGHT, LLP  
2068 Orange Tree Lane, Suite 216  
Redlands, CA 92374  
Telephone: (909) 557-1250  
Facsimile: (909) 557-1275

Mitchell M. Breit, Esq. (Admitted *Pro Hac Vice*)  
mbreit@wdklaw.com  
WHATLEY DRAKE & KALLAS, LLC  
1540 Broadway, 37th Floor  
New York, NY 10036  
Telephone: (212) 447-7070  
Facsimile: (212) 447-7077

Attorneys for Plaintiffs, VERONICA GUTIERREZ, ERIN WALKER  
and WILLIAM SMITH, on behalf of themselves and  
all others similarly situated,

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VERONICA GUTIERREZ, ERIN WALKER )  
and WILLIAM SMITH, as individuals, and on )  
behalf of all others similarly situated, )

Plaintiffs,

v.

WELLS FARGO & COMPANY; WELLS  
FARGO BANK, N.A.; and DOES 1 through  
125,

Defendants.

Case No.: C 07-05923 WHA (JCSx)

CLASS ACTION

**DECLARATION OF RICHARD D. McCUNE IN  
SUPPORT OF PLAINTIFFS'  
ADMINISTRATIVE REQUEST TO FILE  
PORTIONS OF PLAINTIFFS' OPPOSITION TO  
DEFENDANT'S MOTION FOR SUMMARY  
JUDGMENT UNDER SEAL**

**DATE: August 21, 2008  
TIME: 8:00 a.m.  
DEPT: Courtroom 9, 19th Floor**

Judge Assigned: Hon. William H. Alsup  
Complaint Filed: November 21, 2007

I, RICHARD D. McCUNE, hereby declare the following:

1. I am an attorney licensed to practice law before all of the courts of the State of California and  
I am a partner of McCune & Wright, LLP, counsel of record for Plaintiffs. The following

-1-


Declaration of Richard D. McCune In Support of Plaintiffs' Administrative Request to File Portions of Plaintiffs' Opposition  
to Defendant's Motion for Summary Judgment  
Case No.: C 07-05923 WHA (JCSx)

1 facts are within my personal knowledge or based on records and files at my law firm, and, if  
2 called upon as a witness, I could and would testify competently thereto. I make this  
3 Declaration in support of Plaintiffs' Administrative Request to File Portions of Plaintiffs'  
4 Opposition to Defendant's Motion for Summary Judgment Under Seal.

- 5 2. Portions of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment and  
6 Declaration of Richard D. McCune in Support of Opposition to Defendant's Motion for  
7 Summary Judgment refer to or contain information that has been designated as confidential  
8 by Defendant Wells Fargo Bank, N.A., pursuant to the Stipulated Protective Order in this  
9 case. Plaintiffs have redacted those portions from the public version of the documents and  
10 will lodge herewith a redacted version of these documents with the Court.

- 11 3. Furthermore, **Exhibits 1 and 2** of the Declaration of Richard D. McCune in Support of  
12 Opposition to Defendant's Motion for Summary Judgment refer to or contain information  
13 that has been designated by Defendant as confidential pursuant to the Stipulated Protective  
14 Order in this case. While **Exhibit 1** is a document which only partially contains confidential  
15 information, **Exhibit 2** is a document which has been entirely designated confidential by  
16 Defendant. Plaintiffs are lodging herewith redacted versions of **Exhibit 1** which only  
17 partially contain confidential information. **Exhibit 2** which document is entirely  
18 confidential, good cause exists to seal that Exhibit of the McCune Declaration.

19 I declare under penalty of perjury under the laws of the United States of America that the  
20 foregoing is true and correct. Executed this 30th day of July, 2008, in Redlands, California.

21  
22 

23 Richard D. McCune  
24  
25  
26  
27  
28